

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 5, 2001 at 9:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **SB 1 - 2-23-01**
SB 20 - 1-19-01
SB 132 - 1-19-01

SB 170 - 1-19-01

SB 254 - 1-19-01

Executive Action: None

HEARING ON SB 254

Sponsor: Senator Mike Halligan, SD 34, Missoula said currently there is a Victim's Assistance Program in the State of Montana. It is administered under the Board of Crime Control, which is administratively attached to the Department of Justice. Over the past decade the Legislature has passed many Victim's Assistance Programs by consolidating and coordinating them. It is essentially a designated planning and program development agency and not necessarily an implementation agency.

The first section of the Bill relates to the transfer from the Board of Crime Control to Mike McGrath, Attorney General, Department of Justice. The purpose is for accountability issues.

Proponents: Mike McGrath, Attorney General, State of Montana.
EXHIBIT (juh50a01)

Jim Oppedahl, Executive Director, Montana Board of Crime Control.

Sharon Hoff Brodowy, Montana Catholic Conference
EXHIBIT (juh50a02)

Ellen Bush, Victim Information Specialist, Department of Corrections.

Opponents: None

Questions from Committee Members and Responses: Reps. Clark, Peterson to Mr. McGrath, Mr. Oppedahl.

Closing by Sponsor: Senator Halligan closed the Hearing on SB 254.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 13.4}

HEARING ON SB 20

Sponsor: Senator Mike Halligan, SD 34, Missoula said as a member of the Law, Justice and Indian Affairs Interim Committee, he is

codifying the family law exception to the appeal of contempt of judgement for orders. The reason for that is so the District Courts can enforce their orders and do that without interference from the Supreme Court. It will insure there is courtesy and autonomy. The Court developed over the years the family law exception to that. In the latest Supreme Court case, the Court had gradually been dismissing cases in which someone filed a direct appeal from a contempt case. The Bill will attempt to codify that language which allows for the appeal when someone is actually found in contempt.

Proponents: None

Opponents: None

Questions from Committee Members and Responses: Reps. Clark, Noennig, Harris to Senator Halligan.

Closing by Sponsor: Senator Halligan closed the Hearing on SB 20.

HEARING ON SB 132

Sponsor: Senator Mike Halligan, SD 34, Missoula passed out **EXHIBIT** (juh50a03). He said the Bill deals with the issue of providing a safe haven for abandoned children. This is a very delicate policy issue, whether or if the State should play a role in setting up legislation which allows for very troubled parents to be able to surrender a child, but still not encouraging that conduct.

The Bill adds provision taken from other states for protection for individuals. The Bill started out to be an abandonment Bill but after talking to other states, the message is not to abandon but surrender to a safe haven concept and that is where the Bill evolved from.

The Bill defines an emergency service provider to be either Fire Department, Hospital or Law Enforcement Entity. The key is a 24-hour facility that is staffed by people who understand emergency procedures. He explained each Section of the Bill and the clean-up language.

{Tape : 1; Side : A; Approx. Time Counter : 13.4 - 30}

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 10.9}

Proponents: Steven Ertelt, Executive Director, Montana Right to Life Association. **EXHIBIT** (juh50a04)

Julie Millam, Executive Director, Christian Coalition
of Montana.

Jim Campbell, Volunteer, Montana Catholic Conference

Rosemary Miller, Executive Director, Catholic Social
Services for Montana.

Al Davis, Montana Mental Health Association, Helena

Debra Kottel, Self, Great Falls

Stacey Anderson, Executive Director, Montana NARAL
and Montanans for Choice.

Rebecca Moog, Montana Women's Lobby, Helena

Opponents: Cindy Morrison Swank, Helena, Taxpayer
EXHIBIT(juh50a05)

Questions from Committee Members and Responses: Reps. Laszloffy,
Adams, Noennig, Rice, Holden, Clark, Mangan, Gutsche, Harris,
Eggers, Shockley to Senator Halligan, Ms. Miller, without
objection, Shirley Brown, Program Bureau Chief, Child and Family
Services; Colleen Murphy, Executive Director, Montana Chapter
National Association of Social Workers, **EXHIBIT**(juh50a06)

{Tape : 1; Side : B; Approx. Time Counter : 10.9 - 29.9}

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 29.7}

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 8.6}

Closing by Sponsor: Senator Halligan closed the Hearing on SB
132.

HEARING ON SB 170

Sponsor: Senator Mike Halligan, SD 34, Missoula said this Bill is
to revise Child Abuse and Neglect Laws to consolidate whatever
the principle or purpose is in the existing statutes and make
them understandable. The key part of the Bill is that it adds
rights to parents for the first time. A show-cause hearing must
be held within 10 days.

This Bill will allow for hearings and resolutions quicker.
Electronics will have to be used in rural areas. The fiscal note
indicates a \$10,000 impact and that is mainly the operational
costs for the mediation or alternative dispute resolution
process. There will be more children going home quicker and more
children adopted quicker under this Bill.

Proponents: Ann Gilkey, Court Assessment Program,
EXHIBIT(juh50a07)

{Tape : 2; Side : B; Approx. Time Counter : 8.6 - 29.6}
{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 3.9}

Shirley Brown, Program Bureau Chief, Child and
Family Services.

Colleen Murphy, Executive Director, National
Association of Social Workers. **EXHIBIT**(juh50a08)

Opponents: None

Questions from Committee Members and Responses: Reps. Peterson,
Holden, Gallus, Curtiss, Eggers, Mangan, Laszloffy to Senator
Halligan, Ms. Gilkey, Ms. Brown.

{Tape : 3; Side : A; Approx. Time Counter : 3.9 - 29.8}
{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 15}

Closing by Sponsor: Senator Halligan closed the Hearing on SB 170
by saying this Bill tries, for the first time, with the help of
the agency, to build a process to revise Child Abuse and Neglect
Laws as well as add some help for parents for early hearings and
notifications.

HEARING ON SB 1

Sponsor: Senator Duane Grimes, SD 20, Clancy said this Bill is
important for employers and employees all across the State of
Montana. Employment reference information is the most valuable
source of information about the background of individual
employees to make sure the right person gets the right job.
Obtaining reference information can potentially involve liability
and that is why so many employers are unwilling to give reference
information. They are legitimately fearful about providing such
information and have been at risk because of the Defamation Law.
The Bill is being amended for the liable and slander section in
the statutes.

This Bill deals with common law privileges or protections in
making defamatory statements. The first kind of privilege that
is dealt with is absolute privilege. An absolute privilege is
total immunity granted on the basis of a speaker's position or
status. They are used for complete freedom of speech as

necessary, for officials to discharge their duties. That applies to the Legislators as well.

The second kind of privilege is called qualified privilege. This is where a balancing test occurs between the interest in preserving somebody's reputation and the need for the publication of the information. They are defined as statements made in good faith. Employment records will fall under the qualified privilege. Employers will still have to be extraordinarily cautious. This clarification will help provide some exchange of pertinent job-related information in good faith. It will not allow for inappropriate and false information to be exchanged, done with maliciousness.

Proponents: John Sullivan, Lawyer, Helena

{Tape : 3; Side : B; Approx. Time Counter : 15 - 29.7}

{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 2.6}

Bob Pyfer, Montana Credit Unions' League

Riley Johnson, National Federation Independent
Businesses.

Opponents: Mike Meloy, Lawyer, Helena

Al Smith, Montana Trial Lawyers' Association,
EXHIBIT (juh50a09)

Don Judge, Montana AFL-CIO

Tom Bilodeau, Research Director, MEA-MFT

Questions from Committee Members and Responses: Reps. Curtiss, Newman, Harris, Gallus, Noennig, Clark to Mr. Sullivan, Senator Grimes, Mr. Smith, Mr. Meloy

{Tape : 4; Side : A; Approx. Time Counter : 2.6 - 30}

{Tape : 4; Side : B; Approx. Time Counter : 0.1 - 20.1}

Closing by Sponsor: Senator Grimes closed the Hearing on SB 1.

{Tape : 4; Side : B; Approx. Time Counter : 20.1 - 22.5}

HOUSE COMMITTEE ON JUDICIARY

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ADJOURNMENT

Adjournment: 12:55 P.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh50aad)